



Labor

# House Passes Bill Limiting Polygraph Tests

The House March 12 passed legislation that would bar most private employers from requiring employees to take lie detector tests in order to get or keep a job. However, members added a number of exemptions to the bill (HR 1524), with the effect of permitting polygraph tests in selected industries.

The vote on HR 1524 was 236-173, and represented a significant victory for organized labor, which had lobbied heavily for the measure. (Vote 42, p. 630)

Union leaders said they were generally satisfied with the legislation except for one exemption that would allow nursing homes and day-care centers to give lie detector tests to employees who had "direct contact" with children or with the elderly.

Prior to final passage, the House rejected, 173-241, a substitute proposal offered by C. W. Bill Young, R-Fla., and George "Buddy" Darden, D-Ga., that would have allowed private-sector polygraph testing as long as the employer followed certain standards and told employees the test was voluntary. (Vote 40, p. 630)

Pat Williams, D-Mont., chief sponsor of HR 1524, said that even with the exemptions in the bill, it still would protect about 80 percent of employees in the private sector from having to take lie detector tests. The bill would halt "the epidemic growth" in the use of the tests, he said.

The bill exempts state, local and federal government employers from coverage. It also allows lie detector tests to be given to persons doing counterintelligence work, including individuals under contract with the CIA or National Security Agency or doing counterintelligence work for the FBI.

HR 1524 gives the secretary of labor the authority to assess civil fines against employers who violate the law and to seek court orders barring employers from violating the law.

HR 1524 now goes to the Senate. A companion bill (S 1815) has been introduced by Labor and Human Resources Chairman Orrin G. Hatch, R-

## Testing Still Allowed For Certain Jobs

Utah, and Edward M. Kennedy, D-Mass., and a hearing on the measure is scheduled for April 23.

### Curbing Lie Detector Tests

About 2 million polygraph tests are administered each year, and about 98 percent of them are in private industry, according to the Education and Labor Committee's Dec. 5 report on HR 1524 (H Rept 99-416). Nearly 75 percent of the tests are given prior to employment, the rest during investigations.

The report said lie detector tests, which assume that "there is a direct correlation between deception and physiological responses," are not reliable. "In fact, a lie detector does not register deception," the report said. "It registers stress through physiological responses — whether out of fear, anger or nervousness."

While 31 states and the District of Columbia have laws regulating the use of lie detectors in the work place, the report said they have not been effective and that a national law is needed to give workers uniform protections.

Although HR 1524 came out of the committee by voice vote Oct. 23, it was not approved without dissent. Several members, led by Republicans Bill Goodling, Pa., and Marge Roukema, N.J., filed opposing views, contending that the majority report relied in its arguments on "a selective and arguably inaccurate recitation of federal studies" while ignoring private studies showing a "relatively high degree of accuracy" for lie detector tests.

The tests may not be perfect, the dissenters said, but they saw "no reason why polygraphs should not continue to be available to employers and employees to supplement other means to verify employee honesty."

### Floor Action

A number of business organizations and industries, particularly

those engaged in pharmaceutical production and distribution, opposed HR 1524, arguing that it went too far in its employee protections.

Susan Hirsch Simmons, manager of public affairs for McKesson Corp., which she said is the nation's largest shipper of drugs, argued that employers need to be able to screen workers before they are hired. To allow lie detector tests only after there has been some crime committed, such as a theft of drugs, is insufficient, she said.

To help meet this concern, the House by voice vote adopted an amendment by Dennis E. Eckart, D-Ohio, allowing the pharmaceutical industry to give lie detector tests to employees and prospective employees with direct access to controlled substances at any point in the distribution chain.

In addition to the exemption for nursing homes and day-care centers, which was offered by Young, the House approved these other exemptions by voice vote:

- By Roukema, to allow polygraph tests for employees who work as security guards in a variety of places, including nuclear power facilities, financial institutions and toxic-waste sites, and for any guard whose job has "a significant impact" on the health or safety of state or local governments or on national security.

- By William S. Broomfield, R-Mich., allowing lie detector tests for workers, job applicants and contractors who work in public utilities.

The House rejected two amendments that sought to exempt financial institutions and gambling casinos from coverage. By a vote of 194-217, it rejected a proposal by Bill McCollum, R-Fla., to cover financial institutions. McCollum said it was illogical to allow lie detector tests for security guards who carry money and other financial instruments from one place to another but to bar testing of employees who actually handle the money and the financial documents. (Vote 41, p. 630)

By voice vote, the House also rejected an amendment by William J. Hughes, D-N.J., to allow polygraph testing of gambling casino employees. ■

—By Nadine Cohodas